

*Legal Dec (Foreign Claims)*

OGC HAS REVIEWED.

Executive for AFM

General Counsel

Claim for Damage Submitted by Mr. [REDACTED]

20 September 1949

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1. The enclosed file has been reviewed by this office and is returned to you with our comments on the legal aspects of the action suggested.

STATSPEC

[REDACTED]

on 1 September 1947. Apparently, there were no witnesses to the accident. The driver stated in an interrogatory that he was carrying certain United States records in his vehicle when a horse-drawn cart caused him to swerve into the building. The police apparently considered him negligent, however, and charged him with reckless driving. The final police action is not indicated.

3. Neither the driver nor our clerk in charge of transportation reported the accident, and on at least one occasion, the clerk diverted an attempt by the building owner to submit his claim. When the accident was finally brought to our attention in February, 1948, both the driver and the clerk were suspended and later discharged. In the meantime, the driver had been attempting to settle the damages directly with the building owner in order to preserve his employment with our station.

4. The owner of the building, Mr. [REDACTED], then submitted a claim against the United States Government for [REDACTED] for damage to his property. A member of the U. S. Foreign Claims Commission estimated the damages to be [REDACTED] or less.

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5. The Chief of the [REDACTED] has recommended that the claim be approved for settlement in the maximum amount of [REDACTED] subject to negotiation and a possible reduction to [REDACTED]. This recommendation was then forwarded to you by the Chief, Budget and Finance Branch, with the suggestion that the Director's approval be obtained in order to remove any possible doubts of validity.

6. The laws applicable to the settlement of Tort Claims against the Government do not cover this situation. The Federal Tort Claims Act of 1946 is limited to claims arising within the United States and specifically excludes claims arising outside. Congress has jealously guarded the right to pay foreign claims and has granted this power only to certain specified agencies for strictly limited purposes. No such power has been extended to this Agency. We have discussed the matter with legal officers for the Department of State who are experienced in this field, and they concur that the normal procedure where favorable action on such a claim is desired is to forward it to the General Accounting Office, with a recommendation that it be considered a meritorious claim for submission to Congress for special relief. If such action is desired, we feel our recommendation should be limited to the figure of LR 20, according to the estimate of the Foreign Claims Representative.

7. In view of the above, it is our opinion that there is no authority for the Director to approve payment of this claim unless there are special aspects of a confidential nature or which go to the actual basis of operations. On the record, there do not appear to be such special considerations, as the claim is one which was handled openly with the full knowledge of the police and other officials.

LAWRENCE R. HOUSTON

Enclos.

LRH:CNP:mes/mbt